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The Gazette of India



EXTRAORDINARY

PART II—Section 3—Sub-section (ii)

PUBLISHED BY AUTHORITY

No. 167] NEW DELHI, FRIDAY, AUGUST 22, 1958/SRAVANA 31, 1880

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi-2, the 22nd August 1958/Sravana 31, 1880 (Saka)

S.O. 1787.—In pursuance of the provisions of sub-rule (3) of Rule 140 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, and in continuation of its notification No. 82/346/57, dated the 13th January, 1958/pausa 23, 1879 Saka, published in the Gazette of India, Extraordinary, Part-II, Section 3 (No. 38) dated January 23, 1958/Magha 3, 1879, the Election Commission hereby publishes the judgement of the High Court of Judicature at Bombay, delivered on the 17th June, 1958, on the appeal filed by Shri Narayan Yashwant Nene, Pen District Kolaba, Bombay State, against the Order dated the 10th December, 1957, of the Election Tribunal, Alibag, in the Election Petition No. 346 of 1957.

APPEAL NO. 145 OF 1958 FROM ORIGINAL DECREE

(Under S. 116-A of the Representation of Peoples Act XLIII of 1951)

Narayan Yeshwant Nene, (Original Petitioner).—*Appellant*;

Versus

Rajaram Balkrishna Raut (Original Opponent).—*Respondent*.

Appeal against the decision of M. S. Apte, Esquire, Member, Election Tribunal at Alibag, in Election Petition No. 346 of 1957.

Mr. R. B. Kotwal, Advocate for the Appellant.

Mr. K. T. Sule with M/s. S. B. Bhasme and M. A. Rane, Advocates for the Respondent.

Coram : S. T. Desai & Miabhoy. JJ.

17th June, 1958

Oral Judgement (Per S. T. Desai, J.):

This appeal, we are glad to learn has been settled by the parties in response to a suggestion made by us. The appeal arises out of a matter which was decided by the Election Tribunal at Alibag. The dispute arose in respect of a single member constituency, the Kolaba Parliamentary Constituency in the Bombay State. There were two candidates for the election, Mr. D. K. Kunte and Mr. Raut, the Respondent before us. The appellant, who was the original petitioner was an elector. The elections were fought out in an atmosphere of considerable heat and passion and if the allegations of the petitioner are

true, that would be a very sad and tragic matter. But since the matter is settled, we are not called upon to express any opinion on any of the corrupt practices alleged by the petitioner. After hearing Mr. Kotwal, learned Counsel for the appellant for some time, we threw out a suggestion that it would be in the interest of all the parties if they could see their way to put an end to this unsavoury litigation. We also pointed out to Mr. Kotwal certain aspects of the matter and also that the result of fighting this election matter would not do any good to either of the parties who fought the election.

Learned Counsel, Mr. Kotwal and Mr. Sule, who appear for the appellant and the respondent before us, now inform us that the matter need not be proceeded with.

Mr. Kotwal states that his client wants to withdraw the petition and that the appeal also may allowed to be withdrawn. Mr. Sule has not objection to the petition being withdrawn and the appeal being allowed to be withdrawn.

Mr. Kotwal further states that his client has decided to withdraw the appeal with a view to peaceful politics in the future.

Our attention was drawn by Mr. Kotwal to the numerous issues which were raised in the petition. One of the grounds raised by the petitioner was that election meetings which Mr. Kunte and his colleagues wanted to address at various places in this constituency were broken up by the agents of the respondent. Now, we have not heard the respondent at all in this appeal and we certainly do not intend to be understood as expressing any opinion of our own on the merits of any of the allegations made by the appellant. But the Tribunal has found that the meetings which Mr. Kunte and his colleagues wanted to address at a number of places had been distributed by the agents of the respondent. We may perhaps observed that in a democracy it is vital that election meetings should be permitted to be carried on peacefully and without any disturbance accompanied or unaccompanied by any use of force or violence. That there is often some good natured heckling at these meetings is well known in all democratic countries. That a candidate may be called upon to answer questions convenient and often inconvenient is also well understood in all democratic countries. But breaking up of meetings by use of force and violence or otherwise is certainly not democratic. We have made these brief observations as Mr. Kotwal was very desirous that we should say something about the breaking up of election meetings.

The result is that the appeal will be allowed to be withdrawn. Learned Counsel for the parties are agreed that there should be no order for costs of the hearing of this appeal and that the order for costs made by the Tribunal should be vacated. Order accordingly.

By order of the Court,

(Sd.) U. S. HATIANGADI,
Deputy Registrar.

[No. 82/346/57/13119.]

By order,

A. N. SEN, Under Secy.